



COUNTY OF LOS ANGELES

**Department of
Agricultural Commissioner
and Weights and Measures**

Cato R. Fiksdal
Agricultural Commissioner/
Director of Weights and Measures

12300 Lower Azusa Road
Arcadia, California 91006-5872

Robert G. Atkins
Chief Deputy

626.575.5451

DATE: July 29, 2002

TO: Supervisor Zev Yaroslavsky, Third District, Chairman
Supervisor Yvonne Brathwaite Burke, Second District, Chair Pro Tem
Supervisor Gloria Molina, First District
Supervisor Don Knabe, Fourth District
Supervisor Michael Antonovich, Fifth District

FROM: Cato R. Fiksdal
Agricultural Commissioner
Director of Weights and Measures

Pastor Herrera, Jr.
Director of Consumer Affairs

SUBJECT: **THE BUYER BEWARE PROGRAM - SIX MONTH UPDATE**

At your January 29, 2002, meeting you directed the Department of Agricultural Commissioner/Weights and Measures (ACWM) and the Department of Consumer Affairs (DCA), to report in six months on the progress of the **L.A. County Buyer Beware Program**. This report is an update on our progress in protecting consumers from being overcharged in stores using electronic point-of-sale stations (a.k.a.: scanners).

Your Board, based on a survey ordered during the 2001 holiday season, recognized that there was a serious problem of overcharges on sale items purchased using scanners, and implemented the **Buyer Beware Program** through an ordinance and the adoption of the recommendations in the survey report.

We are pleased to report that the L.A. County Buyer Beware Program is a reality and is making rapid progress toward full implementation.

Program Funding

A credible enforcement program requires additional staff. We estimated the scanner equipped store population at 10,000. We determined that to properly monitor a population this size would require a staff of 17 field inspectors and the necessary supervisory personnel. Funding would come from an electronic point-of-sale station registration fee.

Authorization to hire the required staff was received in May. Currently, twelve inspectors are conducting store inspections, providing consumer notices, and preparing prosecution documents.

During the start-up of the program, the entire Business Practices and Investigations Division of the Weights and Measures Bureau conducted a store-to-store survey of the retail areas of the county. They identified more than 6000 locations with scanners. With the assistance of the retailers, by June 1, we identified 7500 stores with scanners. With outstanding assistance of the Treasurer/Tax Collector, billing notices were sent out during the first week of June. We continue to add stores to the list and are currently at 7951. To date, we have collected more than \$600,000. Attached is a breakdown of the identified stores in Los Angeles County (Attachment 1).

Enforcement

From the enactment of the program in mid- February through late July, staff conducted 599 undercover inspections. The current rate is 75 stores per week. Overcharges occurred in 211 of the stores inspected. This 35% overcharge rate has exceeded our original estimate. Our inspectors have had to devote more than 1/4 of their time to case write-up and preparation. This, combined with the time necessary for training new staff, has reduced our original estimate of how many stores an inspector can visit per week. We believe, however, that we will have a much better picture of inspector productivity in our next six-month report when we will be able to make recommendations on fee and/or inspection procedure.

To facilitate review of effectiveness, we have divided the store population into 16 categories (e.g., sporting goods, convenience stores, etc.). Attached with this report is a breakdown of overcharge violations based upon store categories (Attachments 2A and 2B). Again, in another six months we will be able to provide what we believe will be adequate statistics to make sound recommendations on inspection procedures.

Public Awareness

Your Board made it clear that information is an important element in helping consumers protect themselves from being overcharged. Our progress in keeping the public informed include:

- **Checkstand Notices.** More than 20,000 of these 3" X 4" blue print on yellow background stickers have been mailed or delivered to retailers. These notices inform customers of their right, under law, to be charged the store's lowest posted or advertised prices.

Because of the cost of follow-up to enforce this effort and because most retailers have express a willingness to cooperate, our plan is to work with the retailers during our inspection visits and continue to provide the stickers at that time and through the mail. Our regular scale and meter inspectors will also provide them to retailers during their visits.

- **No Overcharge Found Notice.** Approximately 180 of these notices have been presented to retailers who have successfully passed inspections by having no overcharges. These notices, like the checkstand notices, have only been made available since April 25, the enactment date for the *Buyer Beware Program*. Also, some stores have decided not to post these notices when provided.
- **Notice of Overcharge Conviction.** This element of the ordinance was modified for the first year of implementation to include only stores that have a second conviction within 12 months. Because there is a considerable lag time from findings to conviction and because the ordinance has been in place for such a short time, we currently have no stores under this order. We intend to notify your Board as soon as we have such a posting. We will be able to report more fully on this in our next report when the moratorium is scheduled to be lifted.
- **News Releases.** The Department has sent three news releases detailing the scanner overcharge cases completed during the listed month. The news releases also highlight the activities of the program during the period.
- **Website.** The Department website provides an alphabetical listing of stores convicted of scanner overcharges. The website currently lists three months of adjudicated cases. In addition, the website allows consumers and retailers to read about the *Buyer Beware Program* and to view the required the checkstand notice. It also provides consumers a site to register complaints.
- **Brochures.** The DCA has developed two brochures: "Be an Alert Shopper" and "Good Pricing Practices." The *Be an Alert Shopper* brochure will be distributed to consumers. It provides helpful tips on how to be a wise shopper and protect against scanner overcharges. Intended for retailers, the *Good Pricing Practices* brochure recommends practices that will help them avoid overcharging their customers, comply with applicable laws and regulations, and respond to customer complaints. The ACWM will fund and distribute these brochures when they are finalized. The draft versions are enclosed.

Legislation

Your Board also asked that we seek legislation to require that all cash registers attached to scanners have displays visible to the consumer. County sponsored bill, AB 2732, Washington, is moving forward and is currently in the Senate scheduled for hearing in the B&P Committee on August 6. We will have representation at the hearing to testify. The author and our lobbyists, Ed Berends and Bill Siverling, have worked very hard and effectively to craft a bill that has removed most of the opposition. We are very hopeful at this point that we will have a good bill for the Governor to sign. A copy of the current bill is enclosed.

Board of Supervisors

July 29, 2002

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Conclusion

I believe your Board has established the foundation of a very important and effective consumer protection program. We have received numerous inquiries from other counties that are now considering similar programs.

As with any new program, there have been growing pains. Our staff fielded more than 1200 calls and e-mails after the billings were sent, despite the explanatory letter that accompanied the registration form. Considerable time was spent handling the administrative details and substantial effort was required to identify the stores. We dealt with various challenges, from discrepancies in the database to challenges to our authority to collect fees. We have handled all of these issues and are moving forward.

Our intent is to continue to work with industry to improve the program and, what is more important, to improve compliance. Our goal is to reduce the level of over charging that is currently taking place with a balance of enforcement and education.

We look forward to reporting to your Board again in another six months when we will have much better inspection and compliance data to present and be able to make recommendations for improvements.

CRF:PH:RGA:JNH:jh

Enclosures

- c. Janssen, CAO
- Verona-Lukens, Executive Office
- Pellman, County Counsel
- Board Deputies
- Papageorge, District Attorney
- Saladino, Treasurer and Tax Collector
- Berends, CAO, ICR
- Bill Siverling



GOOD PRICING PRACTICES:

Benefits:

- ✓ Your Company
- ✓ Your Customers
- ✓ Our Community

~ Board Members ~

Gloria Molina
First District

Yvonne Brathwaite-Burke
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

DRAFT

Pastor Herrera, Jr., Director
Department of Consumer Affairs
500 W. Temple St., Room B-96
Los Angeles, California 90012
800-593-8222 213-974-1452

Cato R. Fiksdal, Director
Agricultural Commissioner/
Weights & Measures Department
12300 Lower Azusa Rd.
Arcadia, California 91006
800-665-2900

July 2002

We welcome your questions and comments. Please contact us at:

✓ Agricultural

**Commissioner/ Weights
& Measures Department:**

Phone: 1-800-665-2900

E-mail: scanners@co.la.ca.us

Website: <http://acwm.co.la.ca.us>

✓ Department of

Consumer Affairs:

Phone: 213-974-9750

E-mail: dca@co.la.ca.us

Website: [http://consumer-](http://consumer-affairs@co.la.ca.us)

[affairs@co.la.ca.us](http://consumer-affairs@co.la.ca.us)

ACCURATE PRICING:

IT'S THE LAW

Los Angeles County is strongly committed to accuracy in pricing and the fair and lawful treatment of consumers.

Existing state law prohibits charging a customer more than the price that is advertised, posted or quoted.

A new ordinance enacted by the Los Angeles County Board of Supervisors in April of 2002 creates a system to register and inspect scanners and other point-of-sale devices. As many as 17 new inspectors will work full-time conducting undercover shopping investigations to insure that consumer are charged the advertised, posted or quoted price.

The Board enacted this ordinance because current retailer procedures have not been adequate to comply with the law. A recent survey by the Los Angeles County Agricultural Commissioner/Weights and Measures Department of stores using scanners found unlawful overcharges on more than one out of ten items purchased.

We hope that the "best practices" outlined in this brochure will help you comply with the law, and build and maintain a loyal customer base.

BEST PRACTICES

- ✓ Company ethics and values come from the top. Communicate a clear policy to all personnel that accurate pricing, customer service, and fair dealing are top priorities. Establish a system of employee incentives and rewards to encourage compliance.
- ✓ Designate a "sale or pricing manager" responsible for ensuring that each cash register is accurately programmed to charge the current sale price.
- ✓ Establish procedures to promptly notify personnel of special sale and price changes. Emphasize that it is your policy to charge the lawful, current sales price. Check and double check that your policy is being carried out.
- ✓ Use cash registers that display prices to your customers so they can see what they are being charged.
- ✓ Post notices of special sales prices at each cash register to remind customers and your employees of the correct price.
- ✓ Establish procedures to promptly remove sale signs and sale prices as soon as a sale ends. Assure that advertising and in-store signage
- ✓ Accurately describe sale items so they are not confused with items to be sold at regular price.
- ✓ Resolve pricing disputes and other customer complaints "on the spot." Welcome complaints as an opportunity to improve customer service and build customer loyalty.
- ✓ Make amends to a customer who has been incorrectly charged or treated discourteously by providing free items or future discounts.
- ✓ Conduct in-house, undercover audits to assure that pricing policies are followed and to learn where improvement is needed. Reward and publicly commend personnel serving customers especially well.
- ✓ Make it easy for your customers to contact you with any complains, concerns or suggestions they may have.
- ✓ Designate a local or regional contact to work with Consumer Affairs and other County agencies that may receive complaints involving your business.



~ Board Members ~

Gloria Molina
First District

Yvonne Brathwaite-Burke
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Weights & Measures Department
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Arcadia, California 91006
(800) 665-2900

❖ If you were overcharged by a scanner and want to file a complaint, please call the Agricultural Commissioner/Weights & Measures Department at:
1-800-665-2900.

❖ You can also visit our website at:
<http://acwm.co.la.ca.us> for more information, or e-mail us your complaint at:
scanners@acwm.co.la.ca.us.

❖ If you want to file a complaint regarding false or deceptive advertising, please call the Department of Consumer Affairs at:
1-800-593-8222.

❖ Our complaint form and additional consumer information are also available on our website at:
<http://consumer-affairs.co.la.ca.us>.

*Be An
Alert
Shopper*

Smart Shoppers

Can Save:

- ✓ Money
- ✓ Time
- ✓ Effort

July 2002

Consumers lose thousands of dollars each year due to inaccurate pricing and false advertising. Alert and informed shoppers can save money, time and effort. The following tips will help you be a wiser shopper.

COMPARISON SHOPPING:

- ☐ Comparison shopping is basically determining what items would give you the most for your hard earned money.
- ☐ Always research and compare prices before you buy, special big purchases.
- ☐ Compare products and services in different stores or places. You can do this in person, over the telephone, or on the Internet. Consumer and trade magazines are also a good research source.
- ☐ For products with a lifetime of three or more years, you should go to at least three different stores and compare prices, warranties, reputability of the manufacturer, merchant services, etc.
- ☐ Invest more time and effort researching items that are expensive and that you plan to keep for a long time.

SCANNER PRICING:

- ☐ Pay attention to the cash register display screen for correct prices.
- ☐ Group all sale items so you can readily observe that you were charged the correct price.
- ☐ Be sure to immediately point out errors you notice to cashier.
- ☐ Ask about the store's policy for incorrect pricing. Stores may offer a discount or free item.
- ☐ Check your receipt for errors before you leave the store. Report errors to the manager or customer service desk.
- ☐ If the store is having a sale, bring in a copy of the ad to the checkout and compare prices.
- ☐ Some sale's prices may not be programmed into the computer because they only last a few hours. Make sure the cashier enters the correct price.
- ☐ Be aware of item prices as you walk through the store. You may want to bring a pen to write down the price of the items on a separate piece of paper.
- ☐ You are entitled to buy the item at the lowest advertised price.

SALES AND DISCOUNTS:

- ☐ A sale's price is not always the best price. Just because an item is on sale does not necessarily mean you will not find it cheaper elsewhere.
- ☐ Some sales and discounts may appear to be good unless you compare the non-sale price. For example, a buy-one get-one-free sale doesn't necessarily mean the overall cost is less just because one item is discounted. Break down the cost of each item and compare that price to the non-sale price.
- ☐ Read the fine print on sale's advertisements carefully. Call beforehand to see if the item is still available.
- ☐ Watch for sale's price adjustments. If you buy an item at regular price then it goes on sale the next week, ask the store if their policy requires that they refund you the difference.
- ☐ Check refund and return policies for items on sale. Stores may have different policies for discounted items.

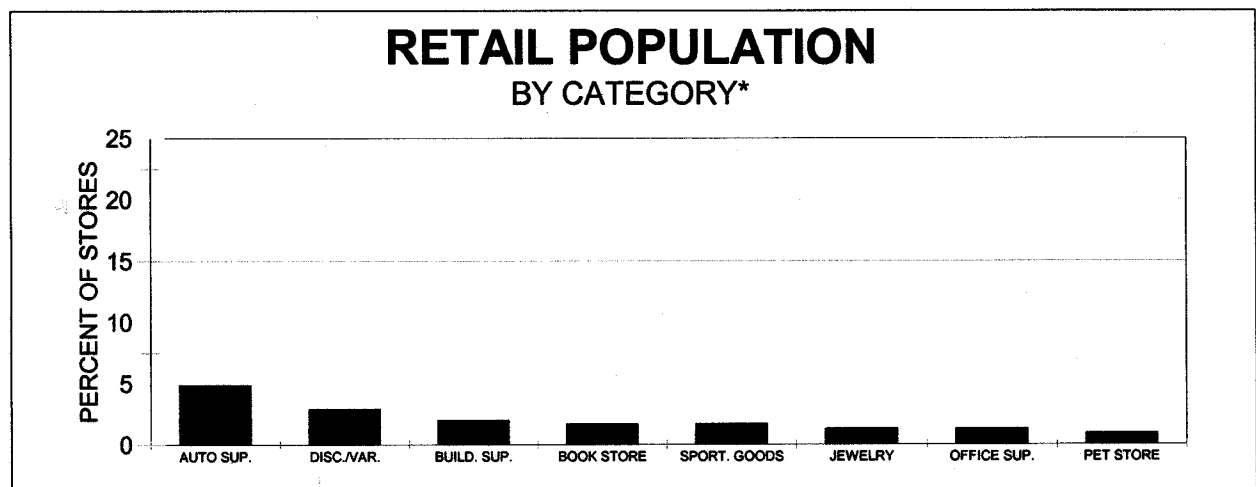
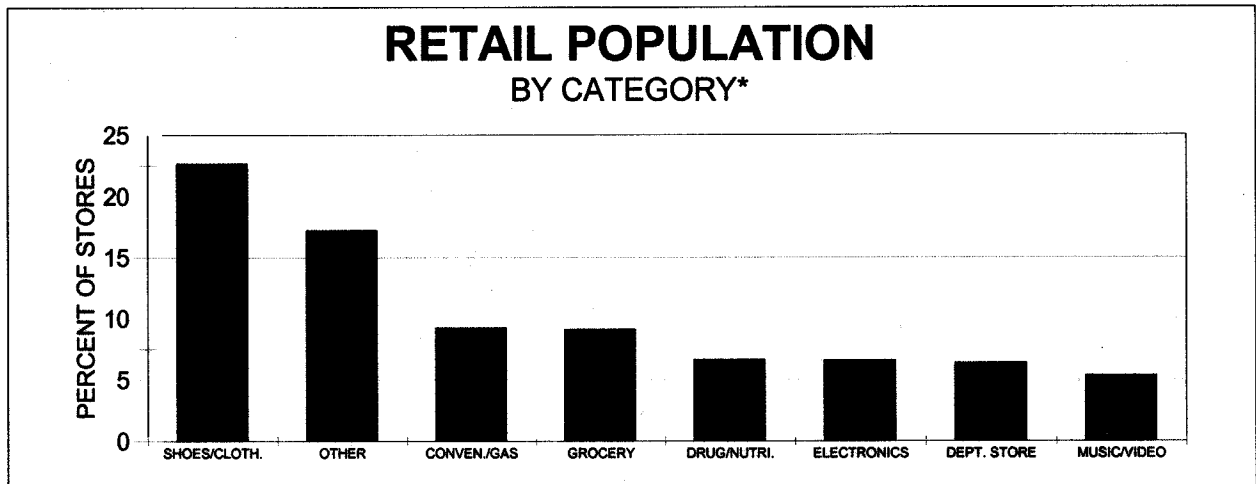


ATTENTION CONSUMERS

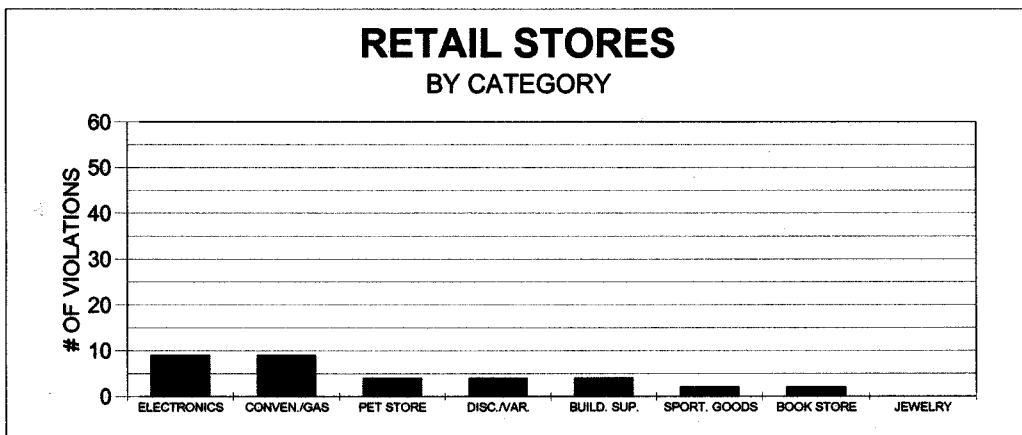
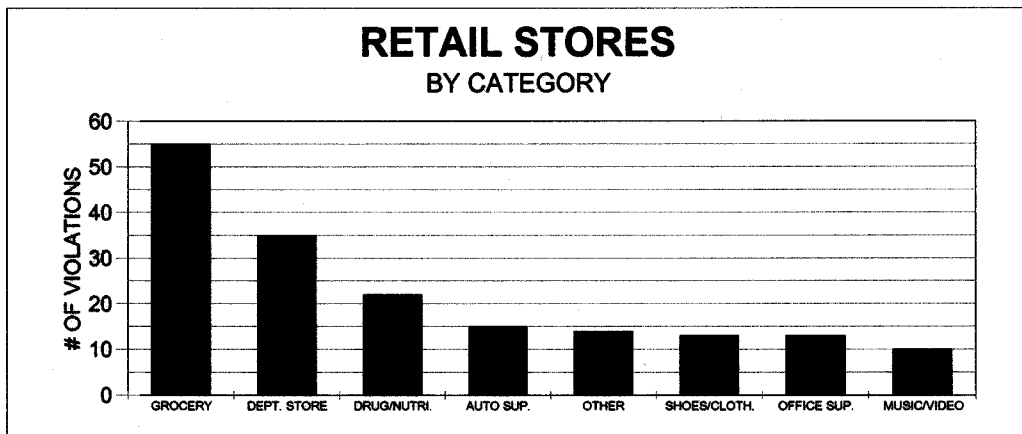


You are entitled to the lowest advertised or posted price offered by this store. For information or complaints, you may contact the Los Angeles County Agricultural Commissioner / Director of Weights & Measures at **1.800.665.2900** or **<http://acwm.co.la.ca.us>**

Cato R. Fiksdal, Director



STORE CATEGORY	# OF STORES	% OF STORES	(AVERAGE)
SHOES/CLOTH.	1,802	22.66	2
OTHER	1,369	17.22	3
CONVEN./GAS	736	9.26	2
GROCERY	725	9.12	8
DRUG/NUTRI.	528	6.64	5
ELECTRONICS	524	6.59	5
DEPT. STORE	508	6.39	21
MUSIC/VIDEO	425	5.35	4
AUTO SUP.	388	4.88	3
DISC./VAR.	234	2.94	6
BUILD. SUP.	161	2.02	9
BOOK STORE	135	1.70	4
SPORT. GOODS	134	1.69	2
JEWELRY	105	1.32	2
OFFICE SUP.	104	1.31	6
PET STORE	73	0.92	3
TOTALS	7,951	100.00%	

SCANNER OVERCHARGE VIOLATIONS**FEBRUARY 17, 2002 - JULY 21, 2002**

STORE CATEGORY	# OF INSPECTIONS	# OF VIOLATIONS
GROCERY	126	55
DEPT. STORE	68	35
DRUG/NUTRI.	45	22
AUTO SUP.	26	15
OTHER	64	14
SHOES/CLOTH.	62	13
OFFICE SUP.	25	13
MUSIC/VIDEO	31	10
ELECTRONICS	40	9
CONVEN./GAS	45	9
PET STORE	10	4
DISC./VAR.	21	4
BUILD. SUP.	14	4
SPORT. GOODS	13	2
BOOK STORE	7	2
JEWELRY	2	0
TOTALS	599	211

**SCANNER OVERCHARGE VIOLATIONS -
FEBRUARY 17, 2002 - JULY 21, 2002**

STORE CATEGORY	# OF INSPECTIONS	# OF VIOLATIONS	UNDER CHARGES	AMOUNT UNDER- CHARGED (\$)	# OVER CHARGES	AMOUNT OVER- CHARGED (\$)	RATIO OF OVER/UNDER (APPROX.)
GROCERY	126	55	19	13.07	135	125.51	7:01
DEPARTMENT STORE	68	35	14	30.56	65	495.30	5:01
DRUGSTORE/NUTRITION	45	22	1	1.00	34	85.98	34:1
AUTO SUPPLY	26	15	6	24.80	27	106.32	5:01
OTHER	64	14	16	67.31	31	189.35	2:01
SHOES/CLOTHING	62	13	5	17.02	21	56.81	4:01
OFFICE SUPPLY	25	13	15	100.26	26	824.06	2:01
MUSIC/VIDEO	31	10	3	6.00	28	102.33	9:01
ELECTRONICS	40	9	7	37.12	15	99.39	2:01
CONVENIENCE/GAS	45	9	8	5.01	9	4.54	1:01
PET STORE	10	4	4	15.52	21	45.47	5:01
DISCOUNT/VARIETY	21	4	1	3.99	14	34.68	2:01
BUILDING SUPPLY	14	4	5	13.46	9	21.29	2:01
SPORTING GOODS	13	2	2	13.99	2	13.00	1:01
BOOK STORE	7	2	0	0.00	2	15.22	--
JEWELRY	2	0	0	0.00	0	0.00	--
TOTALS	599	211	106	349.11	439	2219.25	



LOS ANGELES COUNTY
AGRICULTURAL COMMISSIONER/WEIGHTS AND MEASURES
PRICE ACCURACY VERIFICATION PROGRAM



NO OVERCHARGES FOUND

STORE TESTED: _____
LOCATION: _____
TEST DATE: _____

Inspectors with the Agricultural Commissioner/Weights and Measures Department conducted an undercover test purchase on the above date. Inspection staff purchased _____ sample items. The inspectors were charged the store's lowest advertised or posted price on all the items purchased.

For further information, call 1-800-665-2900 or visit <http://acwm.co.la.ca.us>

Cato R. Fiksdal
Agricultural Commissioner/
Director of Weights and Measures

Inspector: _____
This notice must be removed from display on or before _____
Los Angeles County Ordinance Chapter 2.41.210



Los Angeles County
Agricultural Commissioner/Weights and Measures
PRICE ACCURACY VERIFICATION PROGRAM



NOTICE OF OVERCHARGE CONVICTION

(Store Name)

(Address)

Inspectors with the Agricultural Commissioner/Weights and Measures Department conducted an undercover test purchase on (Date) . The store charged more than its lowest posted/advertised price on (Number) items. The overcharge(s) amounted to (Dollar amount).

As a result of that inspection, this store was found to be in violation of Business and Professions Code 12024.2 (a or b). (Store Name) was fined (Dollar amount), plus (Dollar amount) penalty assessment. It was further ordered to pay (Dollar amount) investigative costs. Hearing was held in (Court), Case #(XXXXXXX), before (Judge) in Dept. (No.).

For further information, call 1-800-665-2900 or visit <http://acwm.co.la.ca.us>.

Cato R. Fiksdal
Agricultural Commissioner/
Director of Weights and Measures

AMENDED IN ASSEMBLY MAY 28, 2002
AMENDED IN ASSEMBLY MAY 15, 2002
AMENDED IN ASSEMBLY APRIL 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2732

Introduced by Assembly Member Washington
(Coauthor: Assembly Member Corbett)

February 22, 2002

An act to add Section 7107 to the Civil Code, relating to automatic checkout systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2732, as amended, Washington. Automatic checking systems.

The Rosenthal-Roberti Item Pricing Act requires every retail grocery store or grocery department within a general retail merchandise store which uses an automatic checkout system to cause to have a clearly readable price indicated on 85% of the total number of packaged consumer commodities offered for sale, unless the commodities are otherwise exempted.

This bill would require a business establishment that uses an automatic checkout to sell goods or services to consumers to ensure that the price of each good or service to be paid by the consumer is conspicuously displayed to the consumer at the time the price is interpreted by the system. The bill would authorize a *city, county, city and county, or person* aggrieved ~~consumer~~ to bring a civil action against the business establishment for a violation of that provision. The bill would require a plaintiff to be awarded a civil penalty of *not less than*

\$100 nor more than \$1,000 for each ~~system~~ transaction found to be in violation of this provision.

The requirements of this bill would apply to any automatic checkout system purchased or installed by a business establishment on or after January 1, 2003. The bill would require all automatic checkout systems used by a business establishment on and after January 1, 2006, to comply with its provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature that the state*
2 *laws that protect consumers be adequately enforced to ensure fair*
3 *business practices. It is also the intent of the Legislature to ensure*
4 *that business owners are not unfairly harassed by litigation that is*
5 *without merit. The Legislature finds and declares that the*
6 *provisions of law relating to frivolous actions apply to actions filed*
7 *under this act.*

8 SEC. 2. Section 7107 is added to the Civil Code, to read:

9 7107. (a) A business establishment that uses an automatic
10 checkout system, as defined in paragraph (1) of subdivision (c) of
11 Section 7100, to sell goods or services to consumers shall ensure
12 that the price of each good or service to be paid by the consumer
13 is conspicuously displayed to the consumer at the time the price is
14 interpreted by the system. ~~A price reduction, surcharge, tax, and~~
15 ~~total amount for each transaction shall also be displayed for the~~
16 ~~consumer~~ *All price reductions, surcharges, taxes, and the total*
17 *amount for each transaction also shall be displayed for the*
18 *consumer at least once before the consumer is required to pay for*
19 *the goods or services. The prices and amounts displayed shall be*
20 *of a size and form that are easily viewable by the average*
21 *consumer.*

22 ~~(b) A county, city and county, or aggrieved consumer may~~

23 ~~(b) A city, county, city and county, or person aggrieved may~~
24 ~~bring a civil action against the business establishment for a~~
25 ~~violation of this section. A plaintiff shall be awarded a civil penalty~~
26 ~~of one hundred dollars (\$100) for each system found to be in~~
27 ~~violation of this section.~~

1 ~~(e)~~ violation of this section. The court shall award a civil
2 penalty of not less than one hundred dollars (\$100) nor more than
3 one thousand dollars (\$1,000) for each transaction made in
4 violation of this section. A civil penalty awarded in an action
5 brought by a city, county, or city and county for a violation of this
6 section shall, upon collection, be paid to the county sealer of
7 weights and measures.

8 (c) A person who brings an action for a violation of this section
9 also shall, if he or she prevails, be awarded damages, and
10 reasonable attorney fees and costs.

11 (d) Any person may bring an action to enjoin a violation of this
12 section.

13 (e) The requirements of this section apply to any automatic
14 checkout system purchased or installed by a business
15 establishment on or after January 1, 2003. All automatic checkout
16 systems used by a business establishment on and after January 1,
17 2006, shall comply with the requirements of subdivision (a).